AT&T

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VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S. W. – Room TWB-204
Washington, D. C. 20554

Re: *Ex parte*, WC Docket No. 02-112, Section 272(f)(1) Sunset of the BOC Separate Affiliate and Related Requirements; CC Docket No. 00-175, 2000 Biennial Regulatory Review Separate Affiliate Requirements of Section 64.1903 of the Commission's Rules

Dear Ms. Dortch:

On Wednesday, October 22, 2003, James Talbot, Patrick Merrick and the undersigned, representing AT&T, met with Brent Olson, William Dever, Renee Crittendon, William Kehoe, Ben Childers, Pamela Megna, Jon Minkoff and Michael Carowitz of the Commission's Wireline Competition Bureau. The purpose of the meeting was to review AT&T's comments and reply comments in the above-captioned proceeding addressing the appropriate classification, dominant or non-dominant, of Bell Operating Companies' provision of in-region interLATA telecommunications services. The attached outline summarizing our discussion was provided to the FCC staff in attendance.

Consistent with section 1.1206 of the Commission rules, I am filing one electronic copy of this notice and request that you place it in the record of the above-referenced proceeding.

Sincerely,

F S Simone

ATTACHMENT

cc:	M. Carowitz	W. Kehoe
	B. Childers	P. Megna
	R. Crittendon	J. Minkoff
	W. Dever	B. Olson

Promoting US Long Distance Competition After Sunset of Section 272

BOCs Have Market Power Over Local Services

- Triennial Review Order: no facilities-based alternatives for most residential and enterprise customers
  - TRO found "minimal" deployment of alternative mass-market loop facilities (¶ 222); cable telephony available to under 10 percent of households (¶ 229); wireless "primarily a complementary [rather than a replacement] technology" (¶ 230)
  - CLECs use ILEC special access to reach most commercial buildings – "between 3% to 5%" served by CLEC-owned fiber loops (n.856); CLEC self-deployment "predominantly" at OC-n level (¶ 298)
  - TRO restricts use of UNEs to avoid ILEC special access bottlenecks

BOC Control of Local Bottlenecks Confers Market Power in Long Distance

- BOCs have engaged in price squeezes, cost misallocation and discrimination while subject to section 272
  - Federal State Joint Conference on Accounting Issues October 9, 2003 Recommendation: integrated BOC local and LD "will increase the risk of cost shifting"
- Existing nondominant treatment of BOC LD affiliates "predicated" on section 272
- AT&T nondominant finding based on the *absence* of bottleneck local access facilities
- WTO Agreement requires "appropriate measures" to prevent anticompetitive conduct by carriers with market power ("major suppliers")

BOC LD Services Require Dominant Carrier Regulation After Sunset of Section 272 Pending Other Necessary Reforms

- To ensure that rates are supported by cost
- May be removed on completion of –
  - Intercarrier compensation reform
  - Special access pricing restraints
  - Special access performance measures
  - Independent PIC administration
  - Increased protection against discrimination in connection with joint marketing

Other factors would not prevent the exercise of BOC market power

- CMRS providers also dependent on BOC special access services (see AWS comments)
- "Opportunity cost" arguments against price squeezes fail to recognize the increased retail and access revenues BOCs receive from stimulated LD calls when BOCs reduce LD prices and IXCs reduce LD prices in response (see LEC Classification Order ¶ 127)
- Once BOC misuse of local bottlenecks had led to exit of IXCs, continued potential BOC misuse of local bottlenecks would deter further use of "sunk" LD assets to compete against BOCs